

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

JOSE ERNESTO MEDELLIN,
Petitioner,

v.

NATHANIEL QUARTERMAN,
Director, Texas Department of
Criminal Justice, Correctional
Institutions Division,
Respondent.

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CIVIL ACTION NO. H-06-3688

ORDER

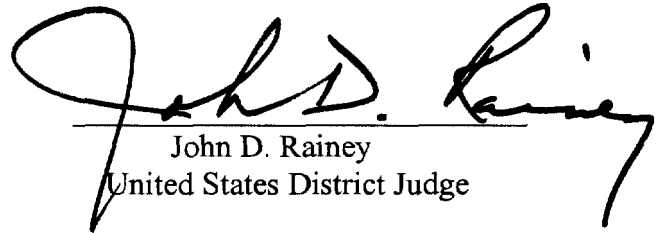
Petitioner Jose Ernesto Medellin (“Medellin”) filed a federal petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 challenging Texas’ refusal to hold hearings on his claim that the police violated his right to consular access under the Vienna Convention. (Docket Entry No. 1). Procedural issues need resolution before this case may continue. Medellin has already once availed himself of federal habeas review. Though he contends that he meets 28 U.S.C. § 2243(b)(2)’s exemption from the Anti-Terrorism and Effective Death Penalty Act’s prohibition on successive petitions, the statute seems to place that determination in the circuit courts alone, *see* 28 U.S.C. § 2243(b)(3). He, nonetheless, asks this Court to hold these proceedings in abeyance until the disposition of his petition for a writ of certiorari to the United States Supreme Court.

In addition to procedural concerns, serious questions exist whether any relief lies in habeas for: (1) his allegation of infirmities in post-conviction process, *see Brown v. Dretke*, 419 F.3d 365, 378 (5th Cir. 2005) (“[A]lleged infirmities in state habeas proceedings are not grounds for habeas relief.”); and (2) his underlying Vienna Convention claim after the Supreme Court’s holding in *Sanchez-Llamas v. Oregon*, ___ U.S. ___, 126 S. Ct. 2669 (2006). Accordingly, this Court

ORDERS Respondent to file an answer or other appropriate dispositive motion within sixty (60) days from the date of this Order. Medellin may file a reply within thirty (30) days thereafter.

Also pending are motions for Medellin's attorneys to appear before this Court *pro hac vice*. (Docket Entry Nos. 2-5). This Court **GRANTS** those motions. Carl Micarelli, Bruce W. Klaw, Donald Francis Donovan, and Catherine M. Amifar may appear as Medellin's counsel in this action.

SIGNED this 8th day of January 2007.



John D. Rainey
United States District Judge